

# **MISSOURI COURT OF APPEALS WESTERN DISTRICT**

**RITA AUST, et al.,**

**Appellants,**

**v.**

**PLATTE COUNTY, MISSOURI; PC HOMES, LLC, KELLY JO YULICH TRUST,  
ARLENE KAGAN and WENDY WINER,**

**Respondents.**

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**DOCKET NUMBER WD78181**

**Date: December 29, 2015**

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Appeal from:  
Platte County Circuit Court  
The Honorable Gerald D. McBeth, Judge

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Appellate Judges:  
Division Two: Mark D. Pfeiffer, Presiding Judge, Lisa White Hardwick and James E. Welsh, Judges

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Attorneys:  
William M. Quitmeier, Kansas City, MO for appellant.  
Michael P. Keleher, Gladstone, MO for Platte County, MO and Mary J. Shaney, Kansas City, MO for respondents.

# **MISSOURI APPELLATE COURT OPINION SUMMARY**

## **COURT OF APPEALS -- WESTERN DISTRICT**

**RITA AUST, et al.**

**Appellants,**

**v.**

**PLATTE COUNTY, MISSOURI; PC HOMES, LLC, KELLY JO YULICH TRUST,  
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**Respondents.**

WD78181

Platte County

Before Division Two: Mark D. Pfeiffer, Presiding Judge, Lisa White Hardwick and James E. Welsh, Judges

Rita Aust and 41 other Platte County property owners ("Appellants") appeal the circuit court's judgment dismissing their petition for a writ of certiorari, declaratory judgment, and preliminary and permanent injunctions against Platte County.

Appellants contend the court erred in dismissing their petition because: (1) they provided proper notice to all parties; (2) their failure to file the record of the administrative proceedings within the statutorily-required time frame was not fatal to their claim; (3) declaratory relief was available to them; and (4) they sufficiently pled a claim for injunctive relief.

**AFFIRMED.**

Division Two holds:

(1) The circuit court did not err in dismissing the petition for writ of certiorari because Appellants failed to seek the writ against the proper party under Section

64.660, RSMo 2000, and, in turn, failed to file the record within the 30-day period prescribed by Section 536.130, RSMo 2000.

(2) The circuit court did not err in dismissing Appellants' request for declaratory relief. Because Section 64.660, RSMo 2000, provides for judicial review of the Commission's zoning decisions through a petition for writ of certiorari, a declaratory judgment was not available to Appellants.

(3) The circuit court did not err in dismissing Appellants' request for injunctive relief because Appellants did not plead any facts showing that they lacked an adequate remedy at law.

Opinion by: Lisa White Hardwick, Judge

**December 29, 2015**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**